



Atty. Dkt. No. 053466-0395

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Noboru MAKI et al.
Title: HBV PRECORE PROTEIN HAVING A PARTICLE-FORMING ABILITY
Appl. No.: 10/526,744
International Filing Date: 9/5/2003
371(c) Date: 3/25/2005
Patent No.: 7,713,532
Grant Date: 5/11/2010
Examiner: Bo PENG
Art Unit: 1648
Conf. No.: 7902

**REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT FOR
PATENT UNDER 37 C.F.R. §1.705(d)**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants have calculated PTA for the captioned patent and have determined that the patent is entitled to 703 days of Patent Term Adjustment, as shown on the attached sheet, which shows the relevant delays under 37 CFR §§1.702, 1.703 and 1.704:

(a) Total PTO delay: 790 days

(b) Total Applicant delay: 87 days

Final PTA Determination under 37 CFR §1.703(f): 703 days

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In accordance with 1.705(b)(2)(ii), the relevant dates as specified in §§1.703(a) through (e) for which an adjustment is sought and the adjustment as specified in § 1.703(f) to which the patent is entitled are clearly represented in the attached PTA Calculation.

In accordance with §1.705(b)(2)(iv)(A), the circumstances during the prosecution of the application resulting in the patent that constitute a failure to engage in reasonable efforts to conclude processing or examination of such application as set forth in § 1.704 are clearly represented in the attached PTA Calculation.

The 55 day discrepancy between Applicants' calculation and the PTO's calculation is presumably between the filing of a Notice of Appeal on January 16, 2009 and the filing of a Request for Continued Examination on March 11, 2009. This reduction is not proper under 35 USC 154(b)(1)(B) (i). 35 USC 154(b)(1)(B)(i) provides that the guarantee of no more than 3-year pendency does not include "any time consumed by continued examination of the application." 37 CFR 1.702(b)(1) contains parallel language. 37 CFR 1.703(b)(1) implements these provisions by counting the number of days "beginning on the date on which a **request for continued examination** . . . was filed and ending on the date the patent was issued." (emphasis added) 37 CFR 1.703(b)(1) is clear in stating that the "type-B" delay does not include time from the RCE date to the issue date. Thus, Applicants believe that the Office's PTA calculation using the **notice of appeal date** to the issue date is in clear error. Therefore, Applicants respectfully request adjustment of the "B-type" delay to 369 (314 + 55) days.

Applicants therefore respectfully request that the patent be accorded 703 days PTA.

A credit card payment form in the amount of \$200.00 to cover the fee stated in 37 C.F.R. § 1.18(e) is enclosed for this request.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. § 1.705, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by the credit card payment form being unsigned, providing incorrect information resulting in a rejected credit

card transaction, or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741.

Respectfully submitted,

Date JUN 02 2010

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By 

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Patent Term Adjustment Calculation System



Add a new event to this case

Docket Number: 053466-0395

Application Number: 10/526744

Patent Number: N/A

	Event Description	Event Date	Days from Filing	PTO Days	Applicant Days
Edit Delete	Priority Date	09/06/2002	-912		
Edit Delete	International Filing Date	09/05/2003	-548		
	PCT National Stage Commencement Date	03/06/2005	0		
Edit Delete	National Stage Transmittal (NOT all 371(c) & (f) Requirements Met)	03/07/2005	1		
Edit Delete	National Stage Entry (All 371(c) & (f) Requirements Met)	03/25/2005	19		
Edit Delete	Notice to File Missing Parts	07/27/2005	143		
Edit Delete	Response to Notice of Missing Parts	09/13/2005	191		
	14 month From Application date	05/25/2006	445		
Edit Delete	Restriction Requirement	06/25/2007	841	396	
Edit Delete	Restriction Requirement Response Received at PTO	08/24/2007	901		
Edit Delete	Non-Final Office Action	12/14/2007	1,013		
	3 Year Period Starts	03/06/2008	1,096		
Edit Delete	Non-Final Office Action Rsp. Rcv'd at PTO	03/14/2008	1,104		
	Non-Final Office Action Rsp. Rcv'd at PTO + 4 mo	07/14/2008	1,226		
Edit Delete	Final Office Action	07/21/2008	1,233	(7)	
	Final Office Action + 3 months	10/21/2008	1,325		
Edit Delete	Notice of Appeal Received at PTO	01/16/2009	1,412		87
	3 Year Period Stopped	03/10/2009	1,465	369	
Edit Delete	Request For Continued Examination (including amendment)	03/11/2009	1,466		
Edit Delete	Non-Final Office Action	04/29/2009	1,515		
Edit Delete	Non-Final Office Action Rsp. Rcv'd at PTO	07/24/2009	1,601		
Edit Delete	Notice of Allowance	09/17/2009	1,656		
Edit Delete	Issue Fee Paid	12/16/2009	1,746		
	Issue Fee Paid + 4 months	04/16/2010	1,867		
Edit Delete	Patent Grant Date	05/11/2010	1,892	25	
	Totals:			790	87
	PTA:			703	



Version: 3.02.05

LOGIN: Karen Walker

IP: 10.14.41.156

Foley & Lardner LLP